

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**KEVIN SHEILS,**

**Plaintiff,**

**9:06-CV-482  
(GLS\RFT)**

**v.**

**R.J. MINOGUE, Commissioner's  
Hearing Officer; P. ANO, Tier Hearing  
Assistant; D. SELSKY, Director,  
Special Housing,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Kevin Sheils  
Pro Se  
99-A-5444  
Elmira Correctional Facility  
P.O. Box 500  
Elmira, NY 14902-0500

**FOR THE DEFENDANTS:**

HON. ANDREW M. CUOMO  
New York Attorney General  
The Capitol  
Albany, NY 12224

CHARLES J. QUACKENBUSH  
Assistant Attorney General

**Gary L. Sharpe  
U.S. District Judge**

### **MEMORANDUM-DECISION AND ORDER**

The above-captioned matter comes to this court following a Report-Recommendation and Order (“R&R”) by Magistrate Judge Randolph F. Treece, filed August 21, 2008. (Dkt. No. 34.) The R&R<sup>1</sup> recommended conditionally dismissing the complaint. Judge Treece specifically recommended that Sheils be required to inform the court within thirty days, from the adoption of the order, whether he intended to pursue his conditions of confinement claims and forgo for all time his claims concerning the duration of his confinement. On January 6, 2009, Sheils responded and informed the court that he desired to “relinquish all future challenges regarding the [twelve] months loss of good time credits... to allow [the] complaint to proceed forward.” (See Sheils Resp. p. 6; Dkt. No. 40.) Accordingly, the Report-Recommendation is adopted in its entirety, and the complaint survives in regards to his conditions of confinement.

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that the Report-Recommendation of Magistrate Judge Treece filed August 21, 2008, is adopted in its entirety; and it is further

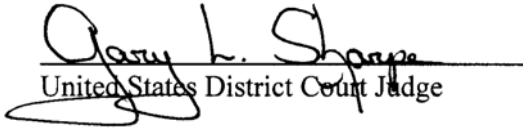
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<sup>1</sup>The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

**ORDERED** that the Clerk provide copies of this Order to all parties.

**IT IS SO ORDERED.**

Albany, New York  
March 25, 2009

  
United States District Court Judge